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4 UNITED STATES DISTRICT COURT  
5 WESTERN DISTRICT OF WASHINGTON  
6 AT TACOMA

7 JULIO CASTILLA,

8 Plaintiff,

9 v.

10 RONALD VAN BOENING et al.,

11 Defendants.

CASE NO. C10-5684 RJB

ORDER ADOPTING A REPORT  
AND RECOMMENDATION

12 This matter comes before the Court on the Report and Recommendation of the  
13 Honorable J. Richard Creatura, United States Magistrate Judge, dated August 5, 2011,  
14 (Dkt. 39), and Plaintiff's Objections to the Report and Recommendation, dated August  
15 18, 2011, and filed August 22, 2011 (Dkt. 40). The Court has considered the Report and  
16 Recommendation, Plaintiff's objections, and the remaining record, and hereby adopts the  
17 Amended Report and Recommendation for the reasons stated herein.

18 This action involves a polygraph test given to the plaintiff in 2007. Plaintiff  
19 alleges his rights were violated because he should have been provided with a Spanish  
20 speaking interpreter. Defendants filed a motion for judgment on the pleadings (Dkt. 33),  
21 and Plaintiff responded by filing a motion for non-suit (Dkt. 38).

22 A dismissal pursuant to Rule 41(a)(2) requires court approval and is only effective  
23 "upon such terms and conditions as the court deems proper." Fed. R. Civ. P. 41(a)(2).  
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1 The Magistrate Judge recommends that dismissal with prejudice be entered. Dkt.  
2 39. Plaintiff objects, contending that the Court should stay proceedings, remand for  
3 exhaustion of the claims through the administrative proceedings, and/or dismiss without  
4 prejudice (Dkt. 40).

5 The Court finds Plaintiff's objections without merit. As detailed in the Report and  
6 Recommendation, Plaintiff did not file a timely grievance regarding the issue of having  
7 an interpreter at his polygraph test and he is now time barred. A stay of the proceedings,  
8 or dismissal without prejudice, would serve no purpose as Plaintiff cannot now exhaust  
9 his administrative procedures.

10 The Court, having reviewed the Report and Recommendation of Magistrate Judge  
11 J. Richard Creatura, objections to the Report and Recommendation, if any, and the  
12 remaining record, does hereby find and **ORDER**:  
13

- 14 1. The Court adopts the Report and Recommendation;
- 15 2. This action is **DISMISSED WITH PREJUDICE**. Given the  
16 amount of time the action was pending, dismissal without prejudice  
would not be proper.
- 17 3. The Clerk is directed to send a copy of this Order to Plaintiff, and to  
18 the Hon. J. Richard Creatura.

19 DATED this 2nd day of September, 2011.

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22 ROBERT J. BRYAN  
23 United States District Judge  
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